REMARKS

In the Office Action dated October 25, 2006, claims 1, 9, and 16 were rejected under the judicially created doctrine of obviousness-type double patenting over U.S. Patent No. 6,324,649 (Eyres); claim 15 was rejected under 35 U.S.C. § 112, ¶ 2; and claims 1-20 were rejected under § 102 over U.S. Patent No. 5,457,746 (Dolphin).

In this Reply, claims 15 and 16 have been amended. In light of the amendments and the following remarks, reconsideration and allowance of claims 1-20 are respectfully requested.

DOUBLE PATENTING REJECTION

Claims 1, 9, and 16 were rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claim 1 of U.S. Patent No. 6,324,649 (Eyres). As the present application and Eyres are commonly owned by Hewlett-Packard Development Company, L.P., a terminal disclaimer is submitted herewith to overcome the double patenting rejection. Accordingly, withdrawal of the obviousness-type double patenting rejection of claims 1, 9, and 16 in view of Eyres is respectfully requested.

REJECTION UNDER 35 U.S.C. § 112, ¶ 2

Claim 15 has been rejected as being indefinite under 35 U.S.C. § 112, ¶ 2. It is believed that the amendment to claim 15 overcomes this rejection. Accordingly, withdrawal of the rejection of claim 15 under 35 U.S.C. § 112, ¶ 2, is respectfully requested.

REJECTION UNDER 35 U.S.C. § 102(b)

Claims 1-20 have been rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 5,457,746 (Dolphin). The rejection is respectfully traversed.

Claim 1 recites a method of installing software in a system comprising providing a user prompt to request entry of a key during an installation procedure; determining whether an entered key is proper; and, in response to determining that the entered key is proper, installing the software in the system and storing the entered key. The method further recites that in response to determining that the entered key is not proper, installing the software in the system

and enabling activation of first code to prompt for entry of the key at a later time. Dolphin does not teach or disclose all of these elements.

For instance, Dolphin does not teach or disclose installing software in the system and storing an entered key "*in response to determining that the entered key is proper*" as required by claim 1. In Dolphin, a user wishing to access data on a CD sends a request to a billing/access center to receive a key to access the desired data. Based on the particular data set that the user wishes to access on the CD, the billing/access center downloads the appropriate key to the user where it is then stored on the user's PCMCIA card or other appropriate hardware. Once stored, the key then can be used to access the desired data on the CD. *See* Dolphin, 6:43-58. In other words, in Dolphin, the key is downloaded and stored in response to a user request for a particular key and then used or entered to access data. As such, an *entered* key is not stored *in response to determining that the entered key is proper*, as required by claim 1.

Dolphin also does not teach "*installing*" the software in the system and enabling activation of first code to prompt for entry of the key at a later time "*in response to determining that the entered key is not proper*," as required by claim 1. Here, the Examiner has asserted that "the scenario when the proper key is not entered is taught by Dolphin when a key is expired. . . . [W]hen the key is expired (not proper) the program requires entry of a new key. Therefore, when the software was installed, the program to prompt for entering a key at a later time must have been initiated." 10/25/2006 Office Action at page 5, paragraph 8.1. Regardless of whether code to prompt for entering a key was initiated when the software was installed, the Examiner has not pointed to anything in Dolphin which discloses that the software *itself* is installed in the system "*in response to determining that the entered key is not proper*," as recited in claim 1. Indeed, if Dolphin's key is not proper, the data on the CD cannot be accessed, much less installed on the system.

In view of the foregoing, it is respectfully submitted that Dolphin does not anticipate claim 1 because Dolphin does not teach or disclose all of the elements recited in claim 1. Accordingly, withdrawal of the rejection under 35 U.S.C. § 102(b) and reconsideration of claim 1 are respectfully requested.

Turning next to independent claim 9, it recites a system comprising, among other elements, a storage containing installation code that when executed causes a processor to provide

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a prompt to request entry of a first key; determine whether the first key is proper; and, in response to determining that the first key is proper, install operating software and store the first key in the storage. Claim 9 further recites that the executed installation code further causes the processor, in response to determining that the first key is not proper, to install the operating software and enable activation of first code to prompt for entry of a key at a later time. Dolphin does not teach or disclose all of these elements.

As discussed above, Dolphin does not store a key in response to determining that the key is proper, as required by claim 9. Rather, in Dolphin, the key is downloaded and stored in response to an authorized request for a key to access desired data. Thus, Dolphin's key is not stored in response to any determination that the key itself is proper, as required by claim 9. Indeed, Dolphin's key is not even used---and thus no determination can be made as to its propriety---until *after* it has been stored in the user's system. In addition, Dolphin does not teach or disclose that operating software is installed in response to determining that the key is not proper, as further recited in claim 9. In Dolphin, if a stored key is not proper because it has expired, for instance, access to the data stored on the CD is denied, thus rendering it impossible to install any operating software. Accordingly, Dolphin does not teach all of the elements recited in claim 9, and, as such, withdrawal of the rejection under 35 U.S.C. § 102(b) and reconsideration of claim 9 are respectfully requested.

With respect to independent claim 16, it has been amended solely to correct inadvertent grammatical errors and not to alter the scope of the recited subject matter. Dolphin is deficient with respect to the subject matter recited in independent claim 16 for reasons similar to those discussed above with respect to independent claims 1 and 9. Specifically, Dolphin does not teach or disclose a storage medium that contains instructions that, when executed, cause a system to install software in the system and store an entered key in response to determining that the entered key is proper. Rather, in Dolphin, a key is requested, stored in response to the request, and then used or entered to obtain access to desired data stored on a CD. As such, Dolphin's key is stored before it is used to access the data and, thus, any storage of the *entered* key is not performed in response to any determination that the *entered* key is proper. Dolphin also does not teach that software is installed in the system in response to determining that the entered key is not proper, as further recited in claim 16. As previously discussed, if an entered key is not

proper, then access to the data is denied, which would make it impossible to install any software on the system. As such, Dolphin does not anticipate claim 16 because Dolphin does not teach or disclose all of the elements required by claim 16. Accordingly, withdrawal of the rejection and reconsideration of claim 16 are respectfully requested.

Claims 2-8 are based on claim 1; claims 10-15 are based on claim 9; and claims 17-20 are based on claim 16. Each of these claims is patentably distinguishable over Dolphin for at least the same reasons discussed above with respect to each of their various base claims, as well as for the further unique limitations recited in each of the dependent claims. Accordingly, withdrawal of the rejection of claims 2-8, 10-15, and 17-20 in view of Dolphin and reconsideration and allowance of those claims are respectfully requested.

CONCLUSION

For the reasons specified above, claims 1-20 are believed to be allowable over the cited references and in condition for allowance. Accordingly, the Examiner is respectfully requested to issue a notice of allowance. Should the Examiner feel that a telephonic interview would speed this application toward issuance, the Examiner is respectfully requested to call the undersigned attorney at the telephone number provided below.

The Commissioner is authorized to charge any additional fees and/or credit any overpayment to Deposit Account No. 08-2025 (200304043-3).

Respectfully submitted,

Date: _____ _____
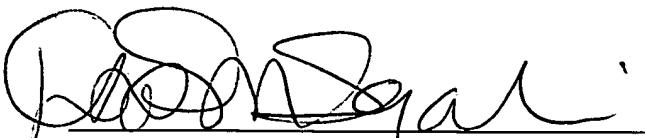
Diana M. Sangalli
Registration No. 40,798
TROP, PRUNER & HU, P.C.
1616 South Voss Road, Suite 750
Houston, TX 77057-2631
Telephone: (713) 468-8880
Facsimile: (713) 468-8883